



**DEPARTMENT OF THE ARMY**  
**JACKSONVILLE DISTRICT CORPS OF ENGINEERS**  
**4400 PGA BOULEVARD, SUITE 500**  
**PALM BEACH GARDENS, FL 33410**

REPLY TO  
ATTENTION OF

May 12, 2009

Palm Beach Gardens Regulatory Office  
SAJ-2008-3462(IP-AAZ)

Ms. Carol Wehle  
South Florida Water Management District  
3301 Gun Club Road  
West Palm Beach, Florida 33406

Dear Ms. Wehle:

The U.S. Army Corps of Engineers (Corps) has completed the review and evaluation of your Department of the Army permit application, number SAJ-2008-3462(IP-AAZ) to discharge fill for the construction of the Compartment B Buildout Stormwater Treatment Area. Our regulations require that you have an opportunity to review the terms and conditions prior to final signature by the Department of the Army. Enclosed is an unsigned Department of the Army permit instrument (permit). This permit supersedes and replaces the permit initially proffered to you on April 9, 2009.

Please read carefully the Special Conditions beginning on page 2 of the permit. These were developed to apply specifically to your project. Water Quality Certification is also required prior to issuance of a permit. The Corps has received a copy of the State of Florida certification for your project. In accordance with General Condition 5 of the permit, any special conditions of the Water Quality Certification have been attached to the Department of the Army permit.

**Instructions for Objecting to Permit Terms and Conditions:**

This letter contains an initial proffered permit for your proposed project. If you object to certain terms and conditions contained within the permit, you may request that the permit be modified. Enclosed you will find a Notification of Administrative Appeal Options and Process fact sheet and Request for Appeal (RFA) form. If you choose to object to certain terms and conditions of the permit, you must follow the directions

provided in Section 1, Part A and submit the completed RFA form to the letterhead address.

In order for an RFA to be accepted by the Corps, the Corps must determine that it is complete, that it meets the criteria under 33 CFR Part 331.5, and that it has been received by the District office within 60 days of the date of the RFA. Should you decide to submit an RFA form, it must be received at the letterhead address by July 11, 2009.

**Instructions for Accepting Terms and Conditions and Finalizing Your Permit:** It is not necessary to submit an RFA form to the District office, if you do not object to the decision in this letter. In this case, the permit must be signed by the applicant in the space provided on the signature page of the permit. In the case of corporations, acceptance must be by an officer of that corporation authorized to sign on behalf of the corporation. The party responsible for assuring the work is done in accordance with the permit terms and conditions must sign the permit. Please type or print the name and title of the person signing below the signature and the date signed.

SIGN AND RETURN THE PERMIT, IN ITS ENTIRETY, TO THE LETTERHEAD ADDRESS, JACKSONVILLE DISTRICT.

The permit will be signed by the District Engineer and returned to you. It is important to note that the permit is not valid until the District Engineer signs it.

The Corps Jacksonville District Regulatory Division is committed to improving service to our customers. We strive to perform our duty in a friendly and timely manner while working to preserve our environment. We invite you to take a few minutes to visit the following link and complete our automated Customer Service Survey:

<http://per2.nwp.usace.army.mil/survey.html>.

Your input is appreciated - favorable or otherwise.

If you have any questions concerning this application, you may contact Alisa Zarbo in writing at the letterhead address, by

electronic mail at Alisa.A.Zarbo@usace.army.mil, or by telephone at 772-219-8418.

Sincerely,

A handwritten signature in dark ink, appearing to read 'D. S. Hobbie', written over a horizontal line.

David S. Hobbie  
Chief, Regulatory Division

Enclosures

Applicant: South Florida Water Management District		File Number: SAJ-2008-3462	Date: May 12, 2009
Attached is:		See Section below	
	INITIAL PROFFERED PERMIT (Standard Permit or Letter of permission)	A	
X	PROFFERED PERMIT (Standard Permit or Letter of permission)	B	
	PERMIT DENIAL	C	
	APPROVED JURISDICTIONAL DETERMINATION	D	
	PRELIMINARY JURISDICTIONAL DETERMINATION	E	

**SECTION I:** The following identifies your rights and options regarding an administrative appeal of the above decision. Additional information may be found at <http://usace.army.mil/inet/functions/cw/ccowo/reg> or Corps regulations at 33 CFR Part 331.

**A: INITIAL PROFFERED PERMIT:** You may accept or object to the permit.

- **ACCEPT:** If you received a Standard Permit, you may sign the permit document and return it to the district engineer for final authorization. If you received a Letter of Permission (LOP), you may accept the LOP and your work is authorized. Your signature on the Standard Permit or acceptance of the LOP means that you accept the permit in its entirety, and waive all rights to appeal the permit, including its terms and conditions, and approved jurisdictional determinations associated with the permit.
- **OBJECT:** If you object to the permit (Standard or LOP) because of certain terms and conditions therein, you may request that the permit be modified accordingly. You must complete Section II of this form and return the form to the district engineer. Your objections must be received by the district engineer within 60 days of the date of this notice, or you will forfeit your right to appeal the permit in the future. Upon receipt of your letter, the district engineer will evaluate your objections and may: (a) modify the permit to address all of your concerns, (b) modify the permit to address some of your objections, or (c) not modify the permit having determined that the permit should be issued as previously written. After evaluating your objections, the district engineer will send you a proffered permit for your reconsideration, as indicated in Section B below.

**B: PROFFERED PERMIT:** You may accept or appeal the permit

- **ACCEPT:** If you received a Standard Permit, you may sign the permit document and return it to the district engineer for final authorization. If you received a Letter of Permission (LOP), you may accept the LOP and your work is authorized. Your signature on the Standard Permit or acceptance of the LOP means that you accept the permit in its entirety, and waive all rights to appeal the permit, including its terms and conditions, and approved jurisdictional determinations associated with the permit.
- **APPEAL:** If you choose to decline the proffered permit (Standard or LOP) because of certain terms and conditions therein, you may appeal the declined permit under the Corps of Engineers Administrative Appeal Process by completing Section II of this form and sending the form to the division engineer. This form must be received by the division engineer within 60 days of the date of this notice.

**C: PERMIT DENIAL:** You may appeal the denial of a permit under the Corps of Engineers Administrative Appeal Process by completing Section II of this form and sending the form to the division engineer. This form must be received by the division engineer within 60 days of the date of this notice.

**D: APPROVED JURISDICTIONAL DETERMINATION:** You may accept or appeal the approved JD or provide new information.

- **ACCEPT:** You do not need to notify the Corps to accept an approved JD. Failure to notify the Corps within 60 days of the date of this notice, means that you accept the approved JD in its entirety, and waive all rights to appeal the approved JD.
- **APPEAL:** If you disagree with the approved JD, you may appeal the approved JD under the Corps of Engineers Administrative Appeal Process by completing Section II of this form and sending the form to the division engineer. This form must be received by the division engineer within 60 days of the date of this notice.

**E: PRELIMINARY JURISDICTIONAL DETERMINATION:** You do not need to respond to the Corps regarding the preliminary JD. The Preliminary JD is not appealable. If you wish, you may request an approved JD (which may be appealed), by contacting the Corps district for further instruction. Also you may provide new information for further consideration by the Corps to reevaluate the JD.

**SECTION II - REQUEST FOR APPEAL or OBJECTIONS TO AN INITIAL PROFFERED PERMIT**

**REASONS FOR APPEAL OR OBJECTIONS:** (Describe your reasons for appealing the decision or your objections to an initial proffered permit in clear concise statements. You may attach additional information to this form to clarify where your reasons or objections are addressed in the administrative record.)

**ADDITIONAL INFORMATION:** The appeal is limited to a review of the administrative record, the Corps memorandum for the record of the appeal conference or meeting, and any supplemental information that the review officer has determined is needed to clarify the administrative record. Neither the appellant nor the Corps may add new information or analyses to the record. However, you may provide additional information to clarify the location of information that is already in the administrative record.

**POINT OF CONTACT FOR QUESTIONS OR INFORMATION**

<p>If you have questions regarding this decision and/or the appeal process you may contact:</p> <p><b>Project Manager as noted in letter</b></p>	<p>If you only have questions regarding the appeal process you may also contact:</p> <p><b>for process:</b> <b>Stuart Santos 904-232-2018</b></p>	
<p><b>RIGHT OF ENTRY:</b> Your signature below grants the right of entry to Corps of Engineers personnel, and any government consultants, to conduct investigations of the project site during the course of the appeal process. You will be provided a 15 day notice of any site investigation, and will have the opportunity to participate in all site investigations.</p>		
<p>_____ Signature of appellant or agent.</p>	<p>Date:</p>	<p>Telephone number:</p>

# ***DEPARTMENT OF THE ARMY PERMIT***

**Permittee:** South Florida Water Management District  
Attn: Carol Wehle  
3301 Gun Club Road  
West Palm Beach, FL 33406

**Permit No:** SAJ-2008-3462 (IP-AAZ)

**Issuing Office: U.S. Army Engineer District, Jacksonville**

NOTE: The term "you" and its derivatives, as used in this permit, means the Permittee or any future transferee. The term "this office" refers to the appropriate district or division office of the Corps of Engineers having jurisdiction over the permitted activity or the appropriate official of that office acting under the authority of the commanding officer.

You are authorized to perform work in accordance with the terms and conditions specified below.

**Project Description:** The project includes construction of a stormwater treatment area (STA) on Compartment B of the Everglades Agricultural Area (EAA) in Palm Beach County. The recommended plan for the Compartment B Buildout consists of two independent treatment areas, the North Build-Out (NBO) and the South Build-Out (SBO). Compartment B Build-out will work in association with the existing STA-2 (including STA-2 Cell-4) and STA-3/4 to receive water from the North New River Basin while discharging into Water Conservation Area (WCA) 2A. The work consists of the construction of: (1) two emergent and submerged aquatic vegetation cells for the NBO, each of which have the northern portion containing emergent vegetation; (2) two emergent and submerged aquatic vegetation cells for the SBO (one is submerged aquatic vegetation, one is emergent aquatic vegetation); (3) major inflow pump stations G-434 (1,120 cfs) and seepage pump stations G-434 (2@ 50 cfs) for NBO, major inflow pump stations G-435 (480 cfs) and major outflow pump station G-436 (1,600 cfs) for SBO; and (4) Conveyance canals, collector canals, spreader canals, seepage canals, culverts; and (5) perimeter levees and divider levees (separate cells). The project includes the degradation of the northern L-6 levee between the existing G-336 culverts. As a result of the project, up to approximately 7,699 acres of jurisdictional waters of the United States (4,066 acres of atypical wetlands, 3,219 acres of freshwater marsh wetlands, and 414 acres of canals and ditches) would be impacted as a result of the placement of

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fill material, excavation, and/or flooding to construct the Compartment B Build-out. In total, the build-out of additional stormwater treatment areas would provide approximately 6,817 acres of effective treatment area on Compartment B, which would work in conjunction with the existing 1,900 treatment acres in STA Cell 4. The work described above is to be completed in accordance with the submitted drawings and the attachments affixed at the end of this permit instrument.

**Project Location:** The project site for Compartment B is located in southern Palm Beach County just west of STA 2, east of U.S. Highway 27 (US-27), north of Water Conservation Area (WCA) 2A and south of agricultural lands. The L-6 levee borders the eastern portion of the proposed Compartment B lands.

The North Buildout property is located at:  
Latitude 26.43745216 and Longitude -80.57031426

The South Buildout property is located at:  
Latitude 26.36483313 and Longitude -80.53930085

**Directions to site:** From Fort Lauderdale, travel west on SR I-595, exit onto I-75 North towards Naples, take exit 23 to merge onto US-27 N towards South Bay. Continue on US 27 N approximately 17 miles. The property is on agricultural land to the east of US 27 N, just north of the L-5 Canal.

### **Permit Conditions**

#### **General Conditions:**

1. The time limit for completing the work authorized ends on \_\_\_\_\_. If you find that you need more time to complete the authorized activity, submit your request for a time extension to this office for consideration at least one month before the above date is reached.

2. You must maintain the activity authorized by this permit in good condition and in conformance with the terms and conditions of this permit. You are not relieved of this requirement if you abandon the permitted activity, although you may make a good faith transfer to a third party in compliance with General Condition 4 below. Should you wish to cease to



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maintain the authorized activity or should you desire to abandon it without a good faith transfer, you must obtain a modification of this permit from this office, which may require restoration of the area.

3. If you discover any previously unknown historic or archeological remains while accomplishing the activity authorized by this permit, you must immediately notify this office of what you have found. We will initiate the Federal and State coordination required to determine if the remains warrant a recovery effort or if the site is eligible for listing in the National Register of Historic Places.

4. If you sell the property associated with this permit, you must obtain the signature and the mailing address of the new owner in the space provided and forward a copy of the permit to this office to validate the transfer of this authorization.

5. If a conditioned water quality certification has been issued for your project, you must comply with the conditions specified in the certification as special conditions to this permit. For your convenience, a copy of the certification is attached if it contains such conditions.

6. You must allow representatives from this office to inspect the authorized activity at any time deemed necessary to ensure that it is being or has been accomplished in accordance with the terms and conditions of your permit.

**Special Conditions:**

**1. Reporting Address:** All reports, documentation and correspondence required by the conditions of this permit shall be submitted in a single consolidated annual report to the following address: U.S. Army Corps of Engineers, Regulatory Division, Enforcement Section, P.O. Box 4970, Jacksonville, FL 32232. A courtesy copy shall be provided to the following address: U.S. Army Corps of Engineers, Regulatory Division, 4400 PGA Boulevard, Suite 500, Palm Beach Gardens, FL 33410. The Permittee shall reference this permit number, SAJ-2008-2003(IP-AAZ), on all submittals.

**2. Commencement Notification:** Within 10 days from the date of initiating the authorized work, the Permittee shall provide to

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the Corps a written notification of the date of commencement of work authorized by this permit.

**3. Pre-Construction Meeting:** The Permittee shall hold a pre-construction meeting a minimum of five days prior to commencement of construction for the purposes of informing the contractors on the conditions of the permit. The Permittee shall provide a minimum 48 hours advance notification of the preconstruction meeting to the Corps; U.S. Environmental Protection Agency, attention: Veronica Fasselt; and U.S. Fish and Wildlife (USFWS), attention Doug Chaltry.

**4. As-Built:** Within 60 days of completion of the authorized work or at the expiration of the construction window of this permit, whichever occurs first, the Permittee shall submit as-built drawings of the authorized work and a completed As-Built Certification Form (Attachment 1) to the Corps. The drawings shall be signed and sealed by a registered professional engineer and include the following:

(a) A plan view drawing of the location of the authorized work footprint (as shown on the permit drawings) with an overlay of the work as constructed in the same scale as the attached permit drawings (8½-inch by 11-inch). The drawing should show all "earth disturbance," including wetland impacts, water management structures, and any on-site mitigation areas.

(b) List any deviations between the work authorized by this permit and the work as constructed. In the event that the completed work deviates, in any manner, from the authorized work, describe on the As-Built Certification Form the deviations between the work authorized by this permit and the work as constructed. Clearly indicate on the as-built drawings any deviations that have been listed. Please note that the depiction and/or description of any deviations on the drawings and/or As-Built Certification Form does not constitute approval of any deviations by the U.S. Army Corps of Engineers.

(c) The Department of the Army Permit number.

(d) Include pre- and post-construction aerial photographs of the project site, if available.

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**5. Best Management Practices during Construction Activities:**  
During any and all construction activities, the Permittee agrees to:

(a) Install and maintain siltation fences and turbidity barriers

(b) Conduct turbidity monitoring

(c) Water construction sites and roads to reduce dust generation;

(d) Suspend any surface-disturbing activities during periods of particularly high winds;

(e) Maintain construction equipment according to the manufacturer's specifications;

(f) Transport demolition debris to a landfill in accordance with federal, state, and local requirements;

(g) Off-site dewatering discharges may be necessary for construction activities associated with Compartment B (NBO and SBO to the North New River Canal). Accordingly, a Notice of Intent for coverage under the NPDES Generic Permit for the Discharge of Produced Groundwater from a Non-Contaminated Site Activity (pursuant to §62-621.300(2) F.A.C.), along with results of analytical tests of the proposed discharge, is required to be submitted at least 30 days prior to initiation of off-site discharges associated with construction dewatering activities;

**6. Erosion Control:** Prior to the initiation of any work authorized by this permit, the Permittee shall install erosion control measures along the perimeter of all work areas to prevent the displacement of fill material. Immediately after completion of the final grading of the land surface, all slopes, land surfaces, and filled areas adjacent to wetlands shall be stabilized using sod, degradable mats, or a combination of similar stabilizing materials to prevent erosion. The erosion control measures shall remain in place and be maintained until all authorized work has been completed and the site has been stabilized.

**7. Environmental commitments and measures for avoiding, minimizing, or mitigating adverse effects to wildlife and federally listed species:**

(a) Due to the probability that threatened and endangered species may be present in construction sites, contractors will be trained on how to identify each species.

(b) Any threatened or endangered species and species of concern observed at the site will be recorded and logged of the location sighted. The logs shall be provided to the USFWS on a quarterly basis.

(c) The following measures will be incorporated during project construction to minimize effects on the species: a) Standard Protection Measures for the Eastern Indigo Snake; b) Management Guidelines for the Bald Eagle in the Southeast Region and Bald Eagle Standard Local Operating Procedures for Endangered Species; and c) Habitat Guidelines for the Wood Stork in the Southeast Region. Copies of these documents are available on the USFWS website at <http://www.fws.gov/verobeach/Programs/Permits/Section7.html>. These documents are incorporated into the permit by reference.

(d) The Permittee agrees to install speed limit signs for off-road and improved road travel for construction equipment and employee vehicles at a speed that would be protective of the Florida panther. All entrances shall be secured with gates to control access.

(e) If nesting activity is detected in WCA-2A adjacent to the project site, the Permittee shall contact the USFWS, attention Doug Chaltry, to determine if seasonal or daily timing restrictions on construction activity is needed.

(f) Following construction, maintain an on-site, educational kiosk for the public on the listed species and other wildlife that may be observed in the Compartment B Build-out project.

(g) Cooperate with research-based efforts to provide for long-term ecological monitoring on indigo snake prey densities and habitats in the project area. For example, if an indigo snake is found on the project, the applicant will consider

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allowing the Service to conduct monitoring and radio-tracking of indigo snakes within the project area.

(h) No blasting will occur within 500 feet of the Conservation Corbett and Levee Midway Lines without the written permission of Florida Power & Light.

**8. Sanitary measures:** Prior to commencement of construction activities, the Permittee shall provide safe and sanitary measures for the disposal of solid wastes, contaminated materials, and a spill prevention plan. The Permittee shall be prohibited from dumping oil, fuel, or hazardous wastes in the work area and will be required to adopt safe and sanitary measures for the disposal of solid wastes.

**9. Additional permits:**

(a) The Permittee shall coordinate with the Florida Department of Transportation to obtain the necessary permits prior to construction.

(b) The Permittee shall obtain necessary permits for Compartments B construction dewatering activities.

(c) The Permittee shall obtain necessary permits for the conveyance features described in special condition 13 below.

**10. Cultural resources:** If prehistoric or historic artifacts, such as pottery or ceramics, stone tools, or any other physical remains that could be associated with Native American cultures such as black dirt middens and faunal material concentrations are encountered at any time within the project site area, the permitted project shall cease all activities involving subsurface disturbance in the immediate vicinity of such discoveries. The permittee shall contact the Florida Department of State, Division of Historic Resources, Compliance Review Section at (850)245-6333 or (800)847-7278, as well as appropriate permitting agency office. Project activities shall not resume without verbal and/or written authorization.

**11. Tribal Rights:**

(a) The Permittee shall notify the Corps upon becoming aware of issues which implicate the Miccosukee Tribe of Indians of

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Florida and the Seminole Tribe of Florida so that the Corps can ensure Government to Government coordination and relations.

(b) None of the authorizations or conditions in the permit are intended to diminish or alter the governmental authority and powers of the Miccosukee Tribe of Indians of Florida and the Seminole Tribe of Florida (Tribes), or diminish or alter the rights of those Tribes, including rights under any tribal agreement with the Permittee or any agency of the U.S. Government. The Permittee shall advise this office and the Tribes when the Permittee becomes aware of issues implicating the powers or rights of the Tribes or other issues that may make necessary a modification to the permit.

## **12. Operations:**

(a) This permit authorizes construction only. The Permittee shall not operate Compartment B NBO or SBO. No additional flow other than those discharges authorized by NPDES Permit FL0177946-003-IW7A and EFA Permit No. 0126704-008 are authorized until written authorization is granted by the Corps subject to a future permit evaluation and written modification of this permit. Prior to planned operation of the facility, the Permittee shall submit an operation plan to the Corps for review and approval with the understanding that if an Environmental Impact Statement is required, approximately one year is needed to complete the analysis and if an Environmental Assessment is required, approximately six months is needed to complete the analysis. The National Environmental Policy Act (NEPA) analysis for the project will be updated to reflect the operations plan and coordinated for public and agency review.

(b) The project has been redesigned to degrade the portion of the northern L-6 levee between the existing G-336A-F culverts with the understanding that the discharged would be directed into impacted areas of WCA2A defined as the top 10cm of soil profile with a total phosphorus concentration of > 500 mg/kg. The Permittee must provide details of the engineering analysis and modeling within 180 days of permit issuance to verify that the 1600cfs water can be hydraulically moved north into the proposed northern levee degradation. If it is found that all of 1600cfs cannot be moved north, the Permittee will only be able to discharge the amount of water capable of being discharged to the north to ensure no discharges into the southern portion of WCA-2A.

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**13. L-6 Levee Designs:** This permit acknowledges that the current plan includes the degradation of the L-6 levee between the existing G-336A-F culverts. Within 180 days of permit issuance, the Permittee shall submit 60% design drawings and related information regarding the proposed improvement of the L-6 levee design plans for the discharge into WCA-2A to the Corps for public and agency review and approval. The NEPA analysis for the levee degradation will be updated as needed to reflect the design plan and coordinated for public and agency review. Prior to any conveyance from Compartment B, 90% plans for the proposed conveyance modifications shall be submitted and approved by the Corps in writing. The information to be submitted to the Corps shall include, at a minimum, the following:

- a. L-6 Canal conveyance improvements.
- b. Alternate proposed location of the G-444 Divide Structure.
- c. Modifications to the existing conveyance area bounded by the G-336A-F structures.
- d. Proposed location(s) of material to be dredged/excavated as a result of the proposed activities (including temporary storage locations).
- e. Copies of all real estate authorizations (i.e., right-of-way(s), leases, easements, or other legal agreements that authorize the applicant to perform the proposed activities).
- f. Information describing the employment of erosion controls (Best Management Practices) necessary to prohibit the transport of sediment into downstream receiving waters.
- g. Supporting information on how the proposed activities shall aid in achieving the design objectives of the Everglades Construction Project.
- h. Alternative options and analyses for the L-6 levee degradation to include but not limited to adaptive management of water releases into WCA-2A, installing controllable structures at the G-336E and F culverts as well as other culverts, degrade the levee on an elevation

gradient, with the northernmost section (near G-336A) at the lowest elevation

- i. A monitoring plan for WCA-2A to include, but not be limited to, the ability to track early-warning indicators of potential expansion of the impacted soil zones, such as increased phosphorus concentrations in the water column and reduction of sawgrass, in addition to cattail distribution and soil nutrient conditions, as well as water quality and vegetative composition.
- j. Hydrologic models to predict the downstream effects of the re-designed levee degradation if all of the water cannot be moved to the northern portion of WCA-2A as anticipated in the NEPA analysis for the project.
- k. A revised construction sequence.

**14. Modifications:** The Permittee shall submit any revisions and/or modifications to the project plans as well as all required monitoring reports to the Corps for review. Failure to do so may result in delay with future authorizations or modifications to this permit.

**15. Regulatory Agency Changes:** Should any other regulatory agency require changes to the work authorized or obligated by this permit, the Permittee is advised that a modification to this permit instrument is required prior to initiation of those changes. It is the Permittee's responsibility to request a modification of this permit from the Palm Beach Gardens Regulatory Office.

**16. Compensatory Mitigation:**

a. This permit acknowledges that the impacts associated with the project will be offset by hydrologic enhancement within an approximately 15,360 acre portion of the northern area of WCA-2A. This plan is as described in the attached Compartment B Mitigation Monitoring Plan dated April 2009, and is based on releasing 1600 cfs of water during peak flows into the northern WCA-2A via the levee degradation between the existing G-336A-F culverts and rehydrating the wetlands. If data collection and/or modeling analysis indicates that the water would be discharged into areas of unimpacted soils or if modifications to the L-6 levee degradation are warranted, the mitigation plan would need



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to be modified. The modified mitigation plan would be subject to additional NEPA and public and agency review. The Permittee will be required to provide an acceptable mitigation plan for the Corps' approval. The Permittee understands if this is not accomplished, then the permit will be suspended or revoked.

b. Offsite Mitigation: Provide hydrologic enhancements to the northern portion of WCA-2A.

(1) Baseline survey: Perform a baseline monitoring event of the wetland mitigation area(s) within 90 days of the date of this permit.

(2) Initial monitoring report: Perform the first monitoring report after 1 year of operations.

(3) Subsequent monitoring report: Perform semi-annual monitoring for the first 3 years and annual monitoring thereafter for a total of no less than 5 years of monitoring.

(4) Performance: After 3 years, if the reports do not show trend towards success, the Permittee shall provide an adaptive management plan for achieving the lift.

These onsite and offsite compensatory mitigation areas shall be preserved in perpetuity in accordance with the **Perpetual Conservation** Special Condition of this permit.

**17. Performance Standards:** To meet the objectives of the approved compensatory mitigation plan, the Permittee shall achieve the following performance standards for the northern portion of WCA-2A: Hydrologic enhancement will result in soils that are saturated to the surface between 5 and 12.5 percent of the growing season.

The Permittee shall achieve the above performance standards by the end of the 3rd-year monitoring period, with no maintenance during the 5th year of monitoring. In the event that the above performance standards have not been achieved, the Permittee shall undertake a remediation program approved by the Corps in accordance with the **Remediation** Special Condition of this permit.

**18. Monitoring and Reporting Timeframes:** To show compliance with the performance standards the Permittee shall complete the following:

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a. Perform a baseline monitoring event of the wetland mitigation area(s) within 90 days of the date of this permit.

b. Submit the baseline monitoring report to the Corps within 60 days of completion of the monitoring event. The report will include a paragraph depicting baseline conditions of the mitigation site(s) prior to initiation of the compensatory mitigation objectives and a detailed plan view drawing of all created, enhanced and/or restored mitigation areas.

c. Subsequent to completion of the compensatory mitigation objectives, perform semi-annual monitoring of the wetland mitigation areas for the first 3 years and annual monitoring thereafter for a total of no less than 5 years of monitoring.

d. Submit annual monitoring reports to the Corps within 60 days of completion of the monitoring event. Semi-annual monitoring will be combined into one annual monitoring report.

e. Monitor the mitigation area(s) and submit annual monitoring reports to the Corps until released in accordance with the **Mitigation Release** Special Condition of this permit.

**19. Reporting Format:** Annual monitoring reports shall follow a 20-page maximum report format for assessing compensatory mitigation sites. The Permittee shall submit all documentation to the Corps on 8½-inch by 11-inch paper, and include the following:

a. Project Overview (1 Page):

(1) Department of the Army Permit Number

(2) Name and contact information of Permittee and consultant

(3) Name of party responsible for conducting the monitoring and the date(s) the inspection was conducted

(4) A summary paragraph defining the purpose for the approved project, acreage and type of aquatic resources impacted, and mitigation acreage and type of aquatic resources authorized to compensate for the aquatic impacts

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(5) Written description on the location and any identifiable information to locate the site perimeter(s)

(6) Directions to the mitigation site (from a major highway)

(7) Dates compensatory mitigation commenced and/or was completed

(8) Short statement on whether the performance standards are being met

(9) Dates of any recent corrective or maintenance activities conducted since the previous report submission

(10) Specific recommendations for any additional corrective or remedial actions.

b. Requirements (1 page): List the monitoring requirements and performance standards, as specified in the approved mitigation plan and special conditions of this permit, and evaluate whether the compensatory mitigation project site is successfully achieving the approved performance standards or trending towards success.

c. Summary Data (maximum of 4 pages): Data shall be provided to substantiate the success and/or potential challenges associated with the compensatory mitigation project. Any photo documentation shall be dated and clearly labeled with the direction from which the photo was taken, and be identified on the appropriate maps.

d. Maps (maximum of 3 pages): Maps shall be provided to show the location of the compensatory mitigation site relative to other landscape features, habitat types, locations of photographic reference points, transects, sampling data points, and/or other features pertinent to the mitigation plan.

e. Conclusions (1 page): A general statement shall be included describing the conditions of the compensatory mitigation project. If performance standards are not being met, a brief explanation of the difficulties and potential remedial actions proposed by the Permittee, including a timetable, shall be provided.

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**20. Remediation:** If the compensatory mitigation fails to meet the performance standards 10 years after completion of the compensatory mitigation objectives, the compensatory mitigation will be deemed unsuccessful. Within 60 days of notification by the Corps that the compensatory mitigation is unsuccessful, the Permittee shall submit to the Corps an alternate compensatory mitigation proposal to fully offset the functional loss that occurred as a result of the project. The alternate compensatory mitigation proposal may be required to include additional mitigation to compensate for the temporal loss of wetland function associated with the unsuccessful compensatory mitigation activities. The Corps reserves the right to fully evaluate, amend, and approve or reject the alternate compensatory mitigation proposal. Within 120 days of Corps approval, the Permittee will complete the alternate compensatory mitigation proposal.

**21. Financial Assurances:** The Permittee shall provide sufficient financial assurances, determined to be necessary by the Corps, for the performance of all obligations, covenants, terms, conditions, and agreements required under this permit.

**22. Mitigation Release:** The Permittee's responsibility to complete the required compensatory mitigation, as set forth in the **Compensatory Mitigation** Special Condition of this permit will not be considered fulfilled until mitigation success has been demonstrated and written verification has been provided by the Corps. A mitigation area which has been released will require no further monitoring or reporting by the Permittee; however the Permittee, Successors and subsequent Transferees remain perpetually responsible to ensure that the mitigation area(s) remain in a condition appropriate to offset the authorized impacts in accordance with General Condition 2 of this permit.

**23. Biological Opinion:** This Corps permit does not authorize you to take an endangered species, in particular the eastern indigo snake. In order to legally take a listed species, you must have separate authorization under the Endangered Species Act (ESA) (e.g., an ESA Section 10 permit, or a Biological Opinion (BO) under ESA Section 7, with "incidental take" provisions with which you must comply). The enclosed U.S. Fish and Wildlife Service BO dated April 3, 2009, (Attachment 2) contains mandatory terms and conditions to implement the reasonable and prudent measures that are associated with "incidental take" that is also specified in the BO. Your

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authorization under this Corps permit is conditional upon your compliance with all of the mandatory terms and conditions associated with incidental take of the attached BO, which terms and conditions are incorporated by reference in this permit. Failure to comply with the terms and conditions associated with incidental take of the BO, where a take of the listed species occurs, would constitute an unauthorized take, and it would also constitute non-compliance with your Corps permit. The U.S. Fish and Wildlife Service is the appropriate authority to determine compliance with the terms and conditions of its BO, and with the ESA.

**24. Toxicant Monitoring Plan:** Within 180 days of permit issuance, the Permittee shall submit a monitoring plan for toxicants, including toxaphene. The toxicant monitoring plan shall be developed pursuant to the protocol established in CERP Guidance Memorandum (CGM) 42. CGM 42 establishes an adaptive or "tiered" approach which utilizes monitoring results to either expand or reduce initial monitoring requirements and requires close coordinate with permitting agencies to determine the most appropriate course of action which may include risk assessments and/or contamination mitigation as needed.

**Further Information:**

1. Congressional Authorities: You have been authorized to undertake the activity described above pursuant to:

( ) Section 10 of the Rivers and Harbors Act of 1899  
(33 U.S.C. 403).

(X) Section 404 of the Clean Water Act (33 U.S.C. 1344).

( ) Section 103 of the Marine Protection, Research and Sanctuaries Act of 1972(33 U.S.C. 1413).

2. Limits of this authorization.

a. This permit does not obviate the need to obtain other Federal, State, or local authorizations required by law.

b. This permit does not grant any property rights or exclusive privileges.

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c. This permit does not authorize any injury to the property or rights of others.

d. This permit does not authorize interference with any existing or proposed Federal projects.

3. Limits of Federal Liability. In issuing this permit, the Federal Government does not assume any liability for the following:

a. Damages to the permitted project or uses thereof as a result of other permitted or unpermitted activities or from natural causes.

b. Damages to the permitted project or uses thereof as a result of current or future activities undertaken by or on behalf of the United States in the public interest.

c. Damages to persons, property, or to other permitted or unpermitted activities or structures caused by the activity authorized by this permit.

d. Design or construction deficiencies associated with the permitted work.

e. Damage claims associated with any future modification, suspension, or revocation of this permit.

4. Reliance on Applicant's Data: The determination of this office that issuance of this permit is not contrary to the public interest was made in reliance on the information you provided.

5. Reevaluation of Permit Decision: This office may reevaluate its decision on this permit at any time the circumstances warrant. Circumstances that could require a reevaluation include, but are not limited to, the following:

a. You fail to comply with the terms and conditions of this permit.

b. The information provided by you in support of your permit application proves to have been false, incomplete, or inaccurate (see 4 above).

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c. Significant new information surfaces which this office did not consider in reaching the original public interest decision.

Such a reevaluation may result in a determination that it is appropriate to use the suspension, modification, and revocation procedures contained in 33 CFR 325.7 or enforcement procedures such as those contained in 33 CFR 326.4 and 326.5. The referenced enforcement procedures provide for the issuance of an administrative order requiring you comply with the terms and conditions of your permit and for the initiation of legal action where appropriate. You will be required to pay for any corrective measures ordered by this office, and if you fail to comply with such directive, this office may in certain situations (such as those specified in 33 CFR 209.170) accomplish the corrective measures by contract or otherwise and bill you for the cost.

6. Extensions: General Condition 1 establishes a time limit for the completion of the activity authorized by this permit. Unless there are circumstances requiring either a prompt completion of the authorized activity or a reevaluation of the public interest decision, the Corps will normally give favorable consideration to a request for an extension of this time limit.

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Your signature below, as Permittee, indicates that you accept and agree to comply with the terms and conditions of this permit.

Carol Ann Wehle  
(PERMITTEE)

5-13-09  
(DATE)

Ms. Carol Wehle  
South Florida Water Management District

CAROL ANN WEHLE  
(PERMITTEE NAME-PRINTED)

This permit becomes effective when the Federal official, designated to act for the Secretary of the Army, has signed below.

\_\_\_\_\_  
(DISTRICT ENGINEER)  
Paul L. Grosskruger  
Colonel, U.S. Army

\_\_\_\_\_  
(DATE)



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***Attachments to Department of the Army  
Permit Number SAJ-2008-3462(IP-AAZ)***

1. AS BUILTS: Two (2) pages
2. BIOLOGICAL OPINION: Sixty-three (63) pages dated April 3, 2009
3. WATER QUALITY CERTIFICATION: Specific Conditions of the water quality permit/certification in accordance with General Condition number 5 on page 2 of this DA permit. Fourteen (14) pages
4. COMPARTMENT B MITIGATION MONITORING PLAN/12 Components: Nineteen (19) pages plus cover dated April 2009

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When the structures or work authorized by this permit are still in existence at the time the property is transferred, the terms and conditions of this permit will continue to be binding on the new owner(s) of the property. To validate the transfer of this permit and the associated liabilities associated with compliance with its terms and conditions, have the transferee sign and date below.

\_\_\_\_\_  
(TRANSFEEE-SIGNATURE)

\_\_\_\_\_  
(DATE)

\_\_\_\_\_  
(NAME-PRINTED)

\_\_\_\_\_  
(ADDRESS)

\_\_\_\_\_  
(CITY, STATE, AND ZIP CODE)

## AS-BUILT CERTIFICATION BY PROFESSIONAL ENGINEER

*Submit this form and one set of as-built engineering drawings to the U.S. Army Corps of Engineers, Enforcement Branch, Post Office Box 4970, Jacksonville, Florida 32232-0019. If you have questions regarding this requirement, please contact the Enforcement Branch at 904-232-2907.*

1. Department of the Army Permit Number: \_\_\_\_\_

2. Permittee Information:

Name \_\_\_\_\_

Address \_\_\_\_\_

3. Project Site Identification:

Physical location/address \_\_\_\_\_

4. As-Built Certification:

I hereby certify that the authorized work, including any mitigation required by Special Conditions to the permit, has been accomplished in accordance with the Department of the Army permit with any deviations noted below. This determination is based upon on-site observation, scheduled and conducted by me or by a project representative under my direct supervision. I have enclosed one set of as-built engineering drawings.

\_\_\_\_\_  
Signature of Engineer

\_\_\_\_\_  
Name (Please type)

\_\_\_\_\_  
(FL, PR or VI) Reg. Number

\_\_\_\_\_  
Company Name

\_\_\_\_\_  
Address

\_\_\_\_\_  
City

\_\_\_\_\_  
State

\_\_\_\_\_  
ZIP

(Affix Seal)

\_\_\_\_\_  
Date

\_\_\_\_\_  
Telephone Number

Deviations from the approved permit drawings and special conditions:  
(attach additional pages if necessary)

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